

SENATE JOURNAL

EIGHTY-FIFTH LEGISLATURE — FIRST CALLED SESSION

AUSTIN, TEXAS

PROCEEDINGS

FIFTH DAY

(Continued)

(Wednesday, July 26, 2017)

AFTER RECESS

The Senate met at 10:00 a.m. and was called to order by the President.

Pastor Maurice Simpson, First Mount Zion Baptist Church, Cleburne, was introduced by Senator Birdwell and offered the invocation as follows:

Almighty God and our Father, creator of all things, I give You all praises and thank You for Your blessings and mercy upon us. Father, we beseech You to give these our leaders of the great State of Texas the guidance and wisdom to work out all the problems and situations in a manner that will give honor to Your holy name. We realize that our state leaders are just mortals entrusted with a great responsibility. Give them courage, wisdom, guidance, and dedication to lead our people in the right direction. And, dear Lord, we are asking for continuous blessings for our Governor and all of our elected officials who are present here today. Guide and direct their paths. Give them the knowledge they need to govern our state and solve the problems with integrity and justice for all of the citizens of Texas. Most of all, O Lord, give our leaders wisdom, which can only come from the mighty hand of You. We make all of these requests in the mighty name of Jesus. Amen.

PHYSICIAN OF THE DAY

Senator Watson was recognized and presented Dr. Karen Smith of Manor as the Physician of the Day.

The Senate welcomed Dr. Smith and thanked her for her participation in the Physician of the Day program sponsored by the Texas Academy of Family Physicians.

SENATE RESOLUTION 76

Senator Huffines offered the following resolution:

SR 76, Commending Dallas County District Attorney Faith Johnson on her efforts in investigating voter fraud.

The resolution was read and was adopted without objection.

GUEST PRESENTED

Senator Huffines was recognized and introduced to the Senate Dallas County District Attorney Faith Johnson.

The Senate welcomed its guest.

GUEST PRESENTED

Senator Zaffirini was recognized and introduced to the Senate Sandy Oaks Mayor Karen Mendiola Tanguma.

The Senate welcomed its guest.

SENATE RESOLUTION 64

Senator Zaffirini offered the following resolution:

SR 64, Recognizing Victor Treviño Jr. for his achievements as an Ironman competitor.

The resolution was read and was adopted without objection.

GUESTS PRESENTED

Senator Zaffirini was recognized and introduced to the Senate Victor Treviño Jr., accompanied by his wife, Yvette Treviño; his father, Victor D. Treviño; and his mother, Rosa Marquez de Treviño.

The Senate welcomed its guests.

SENATE BILL 8 ON SECOND READING

The President laid before the Senate **SB 8** by Senator Creighton at this time on its second reading:

SB 8, Relating to health plan and health benefit plan coverage for elective abortion.

The bill was read second time.

(Senator Schwertner in Chair)

Senator Uresti offered the following amendment to the bill:

Floor Amendment No. 1

Amend **SB 8** (senate committee report) as follows:

(1) In SECTION 1 of the bill, strike added Section 1696.001(1), Insurance Code, and substitute the following:

(1) "Elective abortion" means an abortion, as defined by Section 245.002, Health and Safety Code, other than an abortion that is:

(A) necessary to avert a woman's death or a substantial and irreversible impairment of a major bodily function of the woman; or

(B) performed to terminate a pregnancy that resulted from an act of sexual assault or incest.

(2) In SECTION 1 of the bill, in added Chapter 1696, Insurance Code, add the following appropriately numbered section:

Sec. 1696. . . EXEMPTION. This chapter does not apply to health benefit plan coverage provided to an enrollee for a sexual assault kit and examination.

(3) In SECTION 2 of the bill, strike added Section 1218.001, Insurance Code, and substitute the following:

Sec. 1218.001. DEFINITION. In this chapter, "elective abortion" means an abortion, as defined by Section 245.002, Health and Safety Code, other than an abortion that is:

(1) necessary to avert a woman's death or a substantial and irreversible impairment of a major bodily function of the woman; or

(2) performed to terminate a pregnancy that resulted from an act of sexual assault or incest.

(4) In SECTION 2 of the bill, strike added Section 1218.003, Insurance Code, and substitute the following:

Sec. 1218.003. CERTAIN COVERAGE NOT AFFECTED. This chapter does not apply to health benefit plan coverage provided to an enrollee for:

(1) any abortion other than an elective abortion as defined by Section 1218.001; or

(2) a sexual assault kit and examination.

The amendment to **SB 8** was read and failed of adoption by the following vote: Yeas 10, Nays 20.

Yeas: Garcia, Hinojosa, Menéndez, Miles, Rodríguez, Uresti, Watson, West, Whitmire, Zaffirini.

Nays: Bettencourt, Birdwell, Buckingham, Burton, Campbell, Creighton, Estes, Hall, Hancock, Huffines, Huffman, Hughes, Kolkhorst, Nelson, Nichols, Perry, Schwertner, Seliger, Taylor of Galveston, Taylor of Collin.

Absent: Lucio.

Senator Rodríguez offered the following amendment to the bill:

Floor Amendment No. 2

Amend **SB 8** (senate committee report) as follows:

(1) In SECTION 1 of the bill, strike added Section 1696.001(1), Insurance Code (page 1, lines 34-37), and substitute the following:

(1) "Elective abortion" means an abortion as defined by Section 245.002, Health and Safety Code, other than an abortion performed:

(A) due to a medical emergency as defined by Section 171.002, Health and Safety Code; or

(B) to prevent a substantial risk of serious impairment to the mental health of a woman as determined in good faith by a physician according to the physician's best medical judgment.

(2) In SECTION 2 of the bill, strike added Section 1218.001, Insurance Code (page 1, lines 56-59), and substitute the following:

Sec. 1218.001. DEFINITION. In this chapter, "elective abortion" means an abortion as defined by Section 245.002, Health and Safety Code, other than an abortion performed:

(1) due to a medical emergency as defined by Section 171.002, Health and Safety Code; or

(2) to prevent a substantial risk of serious impairment to the mental health of a woman as determined in good faith by a physician according to the physician's best medical judgment.

The amendment to **SB 8** was read and failed of adoption by the following vote: Yeas 10, Nays 20.

Yeas: Garcia, Hinojosa, Menéndez, Miles, Rodríguez, Uresti, Watson, West, Whitmire, Zaffirini.

Nays: Bettencourt, Birdwell, Buckingham, Burton, Campbell, Creighton, Estes, Hall, Hancock, Huffines, Huffman, Hughes, Kolkhorst, Nelson, Nichols, Perry, Schwertner, Seliger, Taylor of Galveston, Taylor of Collin.

Absent: Lucio.

Senator Rodríguez offered the following amendment to the bill:

Floor Amendment No. 3

Amend **SB 8** (senate committee report) as follows:

(1) In SECTION 1 of the bill, strike added Section 1696.001(1), Insurance Code (page 1, lines 34-37), and substitute the following:

(1) "Elective abortion" means an abortion, as defined by Section 245.002, Health and Safety Code, other than an abortion performed:

(A) due to a medical emergency as defined by Section 171.002, Health and Safety Code; or

(B) to terminate a severe fetal abnormality, as defined by Section 285.202, Health and Safety Code, in the fetus as determined in good faith by a physician according to the physician's best medical judgment.

(2) In SECTION 2 of the bill, strike added Section 1218.001, Insurance Code (page 1, lines 56-59), and substitute the following:

Sec. 1218.001. DEFINITION. In this chapter, "elective abortion" means an abortion, as defined by Section 245.002, Health and Safety Code, other than an abortion performed:

(1) due to a medical emergency as defined by Section 171.002, Health and Safety Code; or

(2) to terminate a severe fetal abnormality, as defined by Section 285.202, Health and Safety Code, in the fetus as determined in good faith by a physician according to the physician's best medical judgment.

The amendment to **SB 8** was read and failed of adoption by the following vote: Yeas 10, Nays 20.

Yeas: Garcia, Hinojosa, Menéndez, Miles, Rodríguez, Uresti, Watson, West, Whitmire, Zaffirini.

Nays: Bettencourt, Birdwell, Buckingham, Burton, Campbell, Creighton, Estes, Hall, Hancock, Huffines, Huffman, Hughes, Kolkhorst, Nelson, Nichols, Perry, Schwertner, Seliger, Taylor of Galveston, Taylor of Collin.

Absent: Lucio.

Senator Garcia offered the following amendment to the bill:

Floor Amendment No. 4

Amend **SB 8** (senate committee report) as follows:

(1) In SECTION 1 of the bill, strike added Section 1696.001(1), Insurance Code (page 1, lines 34-37), and substitute the following:

(1) "Elective abortion" means an abortion, as defined by Section 245.002, Health and Safety Code, other than an abortion performed:

(A) due to a medical emergency as defined by Section 171.002, Health and Safety Code; or

(B) to terminate a pregnancy that resulted from an act of incest or sexual assault.

(2) In SECTION 2 of the bill, strike added Section 1218.001, Insurance Code (page 1, lines 56-59), and substitute the following:

Sec. 1218.001. DEFINITION. In this chapter, "elective abortion" means an abortion, as defined by Section 245.002, Health and Safety Code, other than an abortion performed:

(1) due to a medical emergency as defined by Section 171.002, Health and Safety Code; or

(2) to terminate a pregnancy that resulted from an act of incest or sexual assault.

The amendment to **SB 8** was read and failed of adoption by the following vote: Yeas 10, Nays 20.

Yeas: Garcia, Hinojosa, Menéndez, Miles, Rodríguez, Uresti, Watson, West, Whitmire, Zaffirini.

Nays: Bettencourt, Birdwell, Buckingham, Burton, Campbell, Creighton, Estes, Hall, Hancock, Huffines, Huffman, Hughes, Kolkhorst, Nelson, Nichols, Perry, Schwertner, Seliger, Taylor of Galveston, Taylor of Collin.

Absent: Lucio.

Senator Menéndez offered the following amendment to the bill:

Floor Amendment No. 5

Amend **SB 8** (senate committee report) as follows:

(1) In SECTION 1 of the bill, strike added Section 1696.001(1), Insurance Code, and substitute the following:

(1) "Elective abortion" means an abortion, as defined by Section 245.002, Health and Safety Code, other than an abortion performed:

(A) due to a medical emergency as defined by Section 171.002, Health and Safety Code; or

(B) to terminate a pregnancy that resulted from an act of sexual assault.

(2) In SECTION 2 of the bill, strike added Section 1218.001, Insurance Code, and substitute the following:

Sec. 1218.001. DEFINITION. In this chapter, "elective abortion" means an abortion, as defined by Section 245.002, Health and Safety Code, other than an abortion performed:

(1) due to a medical emergency as defined by Section 171.002, Health and Safety Code; or

(2) to terminate a pregnancy that resulted from an act of sexual assault.

The amendment to **SB 8** was read and failed of adoption by the following vote: Yeas 10, Nays 20.

Yeas: Garcia, Hinojosa, Menéndez, Miles, Rodríguez, Uresti, Watson, West, Whitmire, Zaffirini.

Nays: Bettencourt, Birdwell, Buckingham, Burton, Campbell, Creighton, Estes, Hall, Hancock, Huffines, Huffman, Hughes, Kolkhorst, Nelson, Nichols, Perry, Schwertner, Seliger, Taylor of Galveston, Taylor of Collin.

Absent: Lucio.

Senator Zaffirini offered the following amendment to the bill:

Floor Amendment No. 6

Amend **SB 8** (senate committee report) as follows:

(1) In SECTION 1 of the bill, in the heading to Chapter 1696, Insurance Code (page 1, lines 31-32), strike "PROHIBITIONS AND".

(2) In SECTION 1 of the bill, strike added Section 1696.002, Insurance Code (page 1, lines 45-51), and substitute the following:

Sec. 1696.002. COVERAGE THROUGH HEALTH BENEFIT EXCHANGE.

A health benefit exchange shall offer:

(1) a qualified health plan that provides coverage for elective abortion; and

(2) a qualified health plan that does not provide coverage for elective abortion.

(3) In SECTION 2 of the bill, in the heading to added Chapter 1218, Insurance Code (page 1, line 54), strike "PROHIBITIONS AND".

(4) In SECTION 2 of the bill, strike added Section 1218.003, Insurance Code (page 2, lines 36-39), and substitute the following:

Sec. 1218.003. COVERAGE BY HEALTH BENEFIT PLAN. A health benefit

plan issuer shall offer:

(1) a health benefit plan that provides coverage for elective abortion; and

(2) a health benefit plan that does not provide coverage for elective abortion.

(5) In SECTION 2 of the bill, strike added Sections 1218.004, 1218.005, and 1218.006, Insurance Code (page 2, line 40, through page 3, line 9).

The amendment to **SB 8** was read and failed of adoption by the following vote: Yeas 10, Nays 20.

Yeas: Garcia, Hinojosa, Menéndez, Miles, Rodríguez, Uresti, Watson, West, Whitmire, Zaffirini.

Nays: Bettencourt, Birdwell, Buckingham, Burton, Campbell, Creighton, Estes, Hall, Hancock, Huffines, Huffman, Hughes, Kolkhorst, Nelson, Nichols, Perry, Schwertner, Seliger, Taylor of Galveston, Taylor of Collin.

Absent: Lucio.

Senator Uresti offered the following amendment to the bill:

Floor Amendment No. 7

Amend **SB 8** (senate committee report) as follows:

(1) In SECTION 2 of the bill, in the heading to added Chapter 1218, Insurance Code (page 1, line 54), between "ABORTION" and the semi-colon, insert "AND CONTRACEPTION".

(2) In SECTION 2 of the bill, in added Section 1218.004, Insurance Code (page 2, line 40), between "PLAN:" And "A health", insert "(a)".

(3) In SECTION 2 of the bill, in added Section 1218.004, Insurance Code (page 2, between lines 51 and 52), insert the following:

(b) A health benefit plan that provides coverage for elective abortion under Subsection (a) may include contraceptive coverage, including coverage for:

(1) vasectomies;

(2) tubal ligation procedures;

(3) hysterectomies;

(4) birth control devices for men or women; and

(5) emergency contraception.

(4) In SECTION 2 of the bill, in added Section 1218.005, Insurance Code (page 2, line 52), between "PREMIUM" and the period, insert "FOR ELECTIVE ABORTION COVERAGE".

(5) In SECTION 2 of the bill, in added Chapter 1218, Insurance Code (page 2, between lines 65 and 66), insert the following:

Sec. 1218.0051. CALCULATION OF PREMIUM FOR CONTRACEPTIVE COVERAGE. (a) In calculating a premium for contraceptive coverage provided under Section 1218.004(b), a health benefit plan issuer may take into account any cost savings in other health benefit plan coverage offered by the health benefit plan issuer that is estimated to result from the contraceptive coverage.

(b) A health benefit plan issuer that provides contraceptive coverage under Section 1218.004(b) may provide a premium discount to or reduce the premium for an enrollee for other health benefit plan coverage on the basis that the enrollee has contraceptive coverage.

The amendment to **SB 8** was read and failed of adoption by the following vote: Yeas 10, Nays 20.

Yeas: Garcia, Hinojosa, Menéndez, Miles, Rodríguez, Uresti, Watson, West, Whitmire, Zaffirini.

Nays: Bettencourt, Birdwell, Buckingham, Burton, Campbell, Creighton, Estes, Hall, Hancock, Huffines, Huffman, Hughes, Kolkhorst, Nelson, Nichols, Perry, Schwertner, Seliger, Taylor of Galveston, Taylor of Collin.

Absent: Lucio.

Senator Rodríguez offered the following amendment to the bill:

Floor Amendment No. 8

Amend **SB 8** (senate committee report) as follows:

(1) In SECTION 1 of the bill, in added Chapter 1696, Insurance Code (page 1, between lines 51 and 52), insert the following:

Sec. 1696.003. CERTAIN COVERAGE NOT AFFECTED. This chapter does not apply to coverage provided by a qualified health plan for treatment in connection with an involuntary miscarriage.

(2) In SECTION 2 of the bill, strike added Section 1218.003, Insurance Code (page 2, lines 36-39), and substitute the following:

Sec. 1218.003. CERTAIN COVERAGE NOT AFFECTED. This chapter does not apply to health benefit plan coverage provided to an enrollee for:

(1) an abortion other than an elective abortion as defined by Section 1218.001; or

(2) treatment in connection with an involuntary miscarriage.

The amendment to **SB 8** was read and failed of adoption by the following vote: Yeas 10, Nays 20.

Yeas: Garcia, Hinojosa, Menéndez, Miles, Rodríguez, Uresti, Watson, West, Whitmire, Zaffirini.

Nays: Bettencourt, Birdwell, Buckingham, Burton, Campbell, Creighton, Estes, Hall, Hancock, Huffines, Huffman, Hughes, Kolkhorst, Nelson, Nichols, Perry, Schwertner, Seliger, Taylor of Galveston, Taylor of Collin.

Absent: Lucio.

Senator Uresti offered the following amendment to the bill:

Floor Amendment No. 9

Amend **SB 8** (senate committee report) as follows:

(1) In SECTION 1 of the bill, in added Chapter 1696, Insurance Code, add the following appropriately numbered section:

Sec. 1696. ___. EXEMPTION. This chapter does not apply to coverage provided by a qualified health plan for any medically appropriate treatment options for infertility, including:

(1) in vitro fertilization;

(2) gamete intrafallopian transfer; and

(3) zygote intrafallopian transfer.

(2) In SECTION 2 of the bill, strike added Section 1218.003, Insurance Code, and substitute the following:

Sec. 1218.003. CERTAIN COVERAGE NOT AFFECTED. This chapter does not apply to coverage provided by a health benefit plan to an enrollee for:

(1) any abortion other than an elective abortion as defined by Section 1218.001; or

(2) any medically appropriate treatment options for infertility, including:

(A) in vitro fertilization;

(B) gamete intrafallopian transfer; and

(C) zygote intrafallopian transfer.

The amendment to **SB 8** was read and failed of adoption by the following vote: Yeas 10, Nays 20.

Yeas: Garcia, Hinojosa, Menéndez, Miles, Rodríguez, Uresti, Watson, West, Whitmire, Zaffirini.

Nays: Bettencourt, Birdwell, Buckingham, Burton, Campbell, Creighton, Estes, Hall, Hancock, Huffines, Huffman, Hughes, Kolkhorst, Nelson, Nichols, Perry, Schwertner, Seliger, Taylor of Galveston, Taylor of Collin.

Absent: Lucio.

Senator Menéndez offered the following amendment to the bill:

Floor Amendment No. 10

Amend **SB 8** (senate committee report) in SECTION 2 of the bill, in added Section 1218.005, Insurance Code (page 2, between lines 65 and 66), by adding Subsection (d) as follows:

(d) Notwithstanding Subsection (a), the premium for coverage for elective abortion provided by a plan or program described by Section 1218.002 must be calculated on a sliding scale based on financial need determined by the applicant's household income and living expenses if the premium for other coverages offered by the plan or program is calculated on such a sliding scale.

The amendment to **SB 8** was read and failed of adoption by the following vote: Yeas 10, Nays 20.

Yeas: Garcia, Hinojosa, Menéndez, Miles, Rodríguez, Uresti, Watson, West, Whitmire, Zaffirini.

Nays: Bettencourt, Birdwell, Buckingham, Burton, Campbell, Creighton, Estes, Hall, Hancock, Huffines, Huffman, Hughes, Kolkhorst, Nelson, Nichols, Perry, Schwertner, Seliger, Taylor of Galveston, Taylor of Collin.

Absent: Lucio.

SB 8 was passed to engrossment by the following vote: Yeas 20, Nays 10.

Yeas: Bettencourt, Birdwell, Buckingham, Burton, Campbell, Creighton, Estes, Hall, Hancock, Huffines, Huffman, Hughes, Kolkhorst, Nelson, Nichols, Perry, Schwertner, Seliger, Taylor of Galveston, Taylor of Collin.

Nays: Garcia, Hinojosa, Menéndez, Miles, Rodríguez, Uresti, Watson, West, Whitmire, Zaffirini.

Absent: Lucio.

SENATE BILL 5 ON SECOND READING

The Presiding Officer laid before the Senate **SB 5** by Senator Hancock at this time on its second reading:

SB 5, Relating to the prevention of fraud in the conduct of an election; creating a criminal offense; increasing criminal penalties.

The bill was read second time.

(President in Chair)

Senator Hancock offered the following amendment to the bill:

Floor Amendment No. 1

Amend **SB 5** (senate committee printing) in SECTION 2 of the bill, in amended Section 66.058(a), Election Code (page 1, lines 40 through 44), by striking the text and substituting the following:

~~[(1) in an election involving a federal office,] for at least 22 months after election day [in accordance with federal law; or~~

~~[(2) in an election not involving a federal office, for at least six months after election day].~~

The amendment to **SB 5** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1.

Senator Hancock offered the following amendment to the bill:

Floor Amendment No. 2

Amend **SB 5** (senate committee printing) in SECTION 10 of the bill, in added Section 87.0431(b), Election Code (page 4, line 58), by striking "10th" and substituting "30th".

The amendment to **SB 5** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 2.

Senator Rodríguez offered the following amendment to the bill:

Floor Amendment No. 3

Amend **SB 5** (senate committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering the SECTIONS of the bill accordingly:

SECTION ____. Chapter 61, Election Code, is amended by adding Subchapter C to read as follows:

SUBCHAPTER C. DECEPTIVE ELECTION PRACTICES AND VOTER SUPPRESSION

Sec. 61.061. DECEPTIVE ELECTION PRACTICES AND VOTER SUPPRESSION PROHIBITED. A person may not knowingly deceive another person regarding:

(1) the time, place, or manner of conducting an election in this state; or
(2) the qualifications for or restrictions governing voter eligibility for an election in this state.

Sec. 61.062. CRIMINAL OFFENSE. (a) A person commits an offense if the person violates Section 61.061 with the intent to prevent another person from:

(1) voting in an election; or
(2) casting a ballot that may legally be counted.

(b) An offense under this section is a Class B misdemeanor.

The amendment to **SB 5** was read and failed of adoption by the following vote: Yeas 11, Nays 20.

Yeas: Garcia, Hinojosa, Lucio, Menéndez, Miles, Rodríguez, Uresti, Watson, West, Whitmire, Zaffirini.

Nays: Bettencourt, Birdwell, Buckingham, Burton, Campbell, Creighton, Estes, Hall, Hancock, Huffines, Huffman, Hughes, Kolkhorst, Nelson, Nichols, Perry, Schwertner, Seliger, Taylor of Galveston, Taylor of Collin.

Senator Rodríguez offered the following amendment to the bill:

Floor Amendment No. 4

Amend **SB 5** (senate committee printing) as follows:

(1) In SECTION 9 of the bill, in the recital (page 4, line 39), strike "Section 87.041(e), Election Code, is" and substitute "Sections 87.041(b) and (e), Election Code, are".

(2) In SECTION 9 of the bill, immediately before amended Section 87.041(e), Election Code (page 4, between lines 40 and 41), insert the following:

(b) A ballot may be accepted only if:

(1) the carrier envelope certificate is properly executed;

(2) neither the voter's signature on the ballot application nor the signature on the carrier envelope certificate is determined to have been executed by a person other than the voter, unless signed by a witness;

(3) ~~the voter's ballot application states a legal ground for early voting by mail;~~

~~[(4)] the voter is registered to vote, if registration is required by law;~~

~~(4) [(5) the address to which the ballot was mailed to the voter, as indicated by the application, was outside the voter's county of residence, if the ground for early voting is absence from the county of residence;~~

~~[(6)] for a voter to whom a statement of residence form was required to be sent under Section 86.002(a), the statement of residence is returned in the carrier envelope and indicates that the voter satisfies the residence requirements prescribed by Section 63.0011; and~~

~~(5) [(7)] the address to which the ballot was mailed to the voter is an address [that is otherwise] required by Sections 84.002 and 86.003.~~

(3) Add the following appropriately numbered SECTIONS to the bill and renumber the SECTIONS of the bill accordingly:

SECTION ___. Section 13.002(e), Election Code, is amended to read as follows:

(e) Notwithstanding Section 82.005, a ~~[A]~~ person who is certified for participation in the address confidentiality program administered by the attorney general under Subchapter C, Chapter 56, Code of Criminal Procedure, is not eligible for early voting by mail ~~under Section 82.007~~ unless the person submits an application under this section by personal delivery. The secretary of state may adopt rules to implement this subsection.

SECTION ___. Section 82.005, Election Code, is amended to read as follows:

Sec. 82.005. ELIGIBILITY FOR EARLY VOTING [~~BY PERSONAL APPEARANCE~~]. Any qualified voter is eligible for early voting by mail or personal appearance.

SECTION ____. Section 82.007, Election Code, is amended to read as follows:

Sec. 82.007. PARTICIPATION IN ADDRESS CONFIDENTIALITY PROGRAM. Notwithstanding Section 82.005, a [A] qualified voter who, [is eligible for early voting by mail if:

~~[(1) the voter submitted a registration application by personal delivery as required by Section 13.002(e); and~~

~~[(2)] at the time the voter's early voting ballot application is submitted, [the voter] is certified for participation in the address confidentiality program administered by the attorney general under Subchapter C, Chapter 56, Code of Criminal Procedure, is eligible for early voting by mail only if the voter submitted a registration application by personal delivery as required by Section 13.002(e).~~

SECTION ____. Section 84.001(a), Election Code, is amended to read as follows:

(a) To be entitled to vote an early voting ballot by mail, a person [~~who is eligible for early voting~~] must make an application for an early voting ballot to be voted by mail as provided by this title.

SECTION ____. Section 84.002(a), Election Code, is amended to read as follows:

(a) An early voting ballot application must include:

(1) the applicant's name and the address at which the applicant is registered to vote;

(2) for an application for a ballot to be voted by mail by an applicant who will be absent from the applicant's [on the ground of absence from the] county of residence on election day, the address outside the applicant's county of residence to which the ballot is to be mailed;

(3) for an application for a ballot to be voted by mail by an applicant who is 65 years of age or older on election day or has a sickness or physical condition that requires the applicant to reside in a hospital or nursing home or other long-term care facility, or with a relative [on the ground of age or disability], the address of the hospital, nursing home or other long-term care facility, or retirement center, or of a person related to the applicant within the second degree by affinity or the third degree by consanguinity, as determined under Chapter 573, Government Code, if the applicant is living at that address and that address is different from the address at which the applicant is registered to vote;

(4) for an application for a ballot to be voted by mail by an applicant who is confined [on the ground of confinement] in jail as described by Section 84.009(a), the address of the jail or of a person related to the applicant within the degree described by Subdivision (3); and

(5) [~~for an application for a ballot to be voted by mail on any ground,~~] an indication of each election for which the applicant is applying for a ballot[~~;~~ and

~~[(6) an indication of the ground of eligibility for early voting].~~

SECTION ____. Section 84.009, Election Code, is amended by amending Subsection (a) and adding Subsection (b) to read as follows:

(a) This section applies only to an applicant who, at the time the application for a ballot to be voted by mail is submitted, is confined in jail:

(1) serving a misdemeanor sentence for a term that ends on or after election day;

(2) pending trial after denial of bail;

(3) without bail pending an appeal of a felony conviction; or

(4) pending trial or appeal on a bailable offense for which release on bail before election day is unlikely.

(b) On request of the applicant, an application for a ballot to be voted by mail ~~[on the ground of confinement in jail]~~ may be submitted to the early voting clerk, at the discretion of the authority in charge of the jail, by personal delivery by the jail authority or by a designated subordinate of the authority.

SECTION ____. Section 84.011(a), Election Code, is amended to read as follows:

(a) The officially prescribed application form for an early voting ballot must include:

(1) immediately preceding the signature space the statement: "I certify that the information given in this application is true, and I understand that giving false information in this application is a crime.";

(2) a statement informing the applicant of the offenses prescribed by Sections 84.003 and 84.004;

(3) spaces for entering an applicant's voter registration number and county election precinct of registration, with a statement informing the applicant that failure to furnish that information does not invalidate the application; and

(4) on an application for a ballot to be voted by mail:

(A) a space for an applicant ~~[applying on the ground of absence from the county of residence]~~ to indicate whether the applicant will be absent from the applicant's county of residence on election day and, if applicable, the date on or after which the applicant can receive mail at the address outside the county;

(B) a space for indicating the fact that an applicant whose application is signed by a witness cannot make the applicant's mark and a space for indicating the relationship or lack of relationship of the witness to the applicant;

(C) a space for entering an applicant's telephone number, with a statement informing the applicant that failure to furnish that information does not invalidate the application;

(D) a space or box for an applicant who is 65 years of age or older on election day or has a sickness or physical condition that requires the applicant to reside in a hospital or nursing home or other long-term care facility, or with a relative, [applying on the ground of age or disability] to indicate that the address to which the ballot is to be mailed is the address of a facility or relative described by Section 84.002(a)(3), if applicable;

(E) a space or box for an applicant confined [applying on the ground of confinement] in jail as described by Section 84.009(a) to indicate that the address to which the ballot is to be mailed is the address of a relative described by Section 84.002(a)(4), if applicable;

(F) a space for an applicant applying on the ground of age or disability to indicate if the application is an application under Section 86.0015;

(G) spaces for entering the signature, printed name, and residence address of any person assisting the applicant;

(H) a statement informing the applicant of the condition prescribed by Section 81.005; and

(I) a statement informing the applicant of the requirement prescribed by Section 86.003(c).

SECTION ____. Sections 86.001(b) and (c), Election Code, are amended to read as follows:

(b) If the application complies with the applicable requirements prescribed by this title ~~[applicant is entitled to vote an early voting ballot by mail]~~, the clerk shall provide an official ballot to the applicant as provided by this chapter.

(c) Except as provided by Section 86.008, if the applicant is not entitled to vote in the election ~~[by mail]~~, the clerk shall reject the application, enter on the application "rejected" and the reason for and date of rejection, and deliver written notice of the reason for the rejection to the applicant at both the residence address and mailing address on the application. A ballot may not be provided to an applicant whose application is rejected.

SECTION ____. Section 86.003(c), Election Code, is amended to read as follows:

(c) The address to which the balloting materials must be addressed is the address at which the voter is registered to vote, or the registered mailing address if different, unless the application to vote early by mail indicates that the voter ~~[ground for voting by mail is]~~:

(1) will be absent from the voter's ~~[absence from the]~~ county of residence on election day, in which case the address must be an address outside the voter's county of residence;

(2) is confined ~~[confinement]~~ in jail as described by Section 84.009(a), in which case the address must be the address of the jail or of a relative described by Section 84.002(a)(4); or

(3) is 65 years of age or older on election day or has a sickness or physical condition that requires the applicant to reside in a hospital or nursing home or other long-term care facility, or with a relative, ~~[age or disability]~~ and ~~[the voter]~~ is living at a hospital, nursing home or other long-term care facility, or retirement center, or with a relative described by Section 84.002(a)(3), in which case the address must be the address of that facility or relative.

SECTION ____. Section 86.004(b), Election Code, is amended to read as follows:

(b) For an election to which Section 101.104 applies, the balloting materials for a voter who indicates on the application for a ballot to be voted by mail or the federal postcard application that the voter seeks ~~[is eligible]~~ to vote early by mail as a consequence of the voter's being outside the United States shall be mailed on or before the later of the 45th day before election day or the seventh calendar day after the date the clerk receives the application. However, if it is not possible to mail the ballots by the deadline of the 45th day before election day, the clerk shall notify the

secretary of state within 24 hours of knowing that the deadline will not be met. The secretary of state shall monitor the situation and advise the clerk, who shall mail the ballots as soon as possible in accordance with the secretary of state's guidelines.

SECTION ____. Section 102.001(a), Election Code, is amended to read as follows:

(a) A qualified voter is eligible to vote a late ballot as provided by this chapter if the voter has a sickness or physical condition [~~described by Section 82.002~~] that prevents the voter from appearing at the polling place on election day without a likelihood of needing personal assistance or of injuring the voter's health and originates on or after the day before the last day for submitting an application for a ballot to be voted by mail.

SECTION ____. Sections 82.001, 82.002, 82.003, 82.004, 84.002(b), and 112.002(b), Election Code, are repealed.

The amendment to **SB 5** was read and failed of adoption by the following vote: Yeas 11, Nays 20.

Yeas: Garcia, Hinojosa, Lucio, Menéndez, Miles, Rodríguez, Uresti, Watson, West, Whitmire, Zaffirini.

Nays: Bettencourt, Birdwell, Buckingham, Burton, Campbell, Creighton, Estes, Hall, Hancock, Huffines, Huffman, Hughes, Kolkhorst, Nelson, Nichols, Perry, Schwertner, Seliger, Taylor of Galveston, Taylor of Collin.

Senator Zaffirini offered the following amendment to the bill:

Floor Amendment No. 5

Amend **SB 5** (senate committee printing) in SECTION 11 of the bill, adding Section 276.013, Election Code, as follows:

(1) In added Subsection (a)(1) (page 5, line 7), between "(1)" and "influence", insert "unduly".

(2) On page 5, between lines 15 and 16, insert the following:

(a-1) For purposes of Subsection (a)(1), a person unduly influences the vote of another if the person engages in an act intended to overcome the free will or judgment of the voter. Undue influence does not include offering an opinion if solicited by the voter.

The amendment to **SB 5** was read and failed of adoption by the following vote: Yeas 11, Nays 20.

Yeas: Garcia, Hinojosa, Lucio, Menéndez, Miles, Rodríguez, Uresti, Watson, West, Whitmire, Zaffirini.

Nays: Bettencourt, Birdwell, Buckingham, Burton, Campbell, Creighton, Estes, Hall, Hancock, Huffines, Huffman, Hughes, Kolkhorst, Nelson, Nichols, Perry, Schwertner, Seliger, Taylor of Galveston, Taylor of Collin.

Senator Rodríguez offered the following amendment to the bill:

Floor Amendment No. 6

Amend **SB 5** (senate committee printing) in SECTION 11 of the bill, in added Section 276.013, Election Code (page 5, between lines 28 and 29), by inserting the following:

(e) Subsection (a)(1) does not apply if the person is related to the voter within the second degree by affinity or the third degree by consanguinity, as determined under Subchapter B, Chapter 573, Government Code, or was physically living in the same dwelling as the voter at the time of the event.

The amendment to **SB 5** was read and failed of adoption by the following vote: Yeas 11, Nays 20.

Yeas: Garcia, Hinojosa, Lucio, Menéndez, Miles, Rodríguez, Uresti, Watson, West, Whitmire, Zaffirini.

Nays: Bettencourt, Birdwell, Buckingham, Burton, Campbell, Creighton, Estes, Hall, Hancock, Huffines, Huffman, Hughes, Kolkhorst, Nelson, Nichols, Perry, Schwertner, Seliger, Taylor of Galveston, Taylor of Collin.

Senator Rodríguez offered the following amendment to the bill:

Floor Amendment No. 7

Amend **SB 5** (senate committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering the SECTIONS of the bill:

SECTION _____. Chapter 1, Election Code, is amended by adding Section 1.021 to read as follows:

Sec. 1.021. BIPARTISAN ELECTION COMMISSION. (a) The Bipartisan Election Commission is composed of eight members as follows:

(1) two members from each political party whose nominee for governor in the most recent gubernatorial general election received 20 percent or more of the total number of votes received by all candidates for governor in the election, appointed by the senate; and

(2) two members from each political party whose nominee for governor in the most recent gubernatorial general election received 20 percent or more of the total number of votes received by all candidates for governor in the election, appointed by the house of representatives.

(b) A member of the commission serves at the will of the appointing house of the legislature.

(c) The commission shall study methods to reduce election fraud, increase voter turnout, and improve election practices in this state.

(d) The commission shall report its findings to the committees of each house of the legislature with jurisdiction over elections. The commission shall submit one report not later than December 1, 2018, and a second report not later than December 1, 2020. This subsection expires September 1, 2021.

The amendment to **SB 5** was read and failed of adoption by the following vote: Yeas 11, Nays 20.

Yeas: Garcia, Hinojosa, Lucio, Menéndez, Miles, Rodríguez, Uresti, Watson, West, Whitmire, Zaffirini.

Nays: Bettencourt, Birdwell, Buckingham, Burton, Campbell, Creighton, Estes, Hall, Hancock, Huffines, Huffman, Hughes, Kolkhorst, Nelson, Nichols, Perry, Schwertner, Seliger, Taylor of Galveston, Taylor of Collin.

SB 5 as amended was passed to engrossment by the following vote: Yeas 21, Nays 10.

Yeas: Bettencourt, Birdwell, Buckingham, Burton, Campbell, Creighton, Estes, Hall, Hancock, Huffines, Huffman, Hughes, Kolkhorst, Lucio, Nelson, Nichols, Perry, Schwertner, Seliger, Taylor of Galveston, Taylor of Collin.

Nays: Garcia, Hinojosa, Menéndez, Miles, Rodríguez, Uresti, Watson, West, Whitmire, Zaffirini.

REMARKS ORDERED PRINTED

On motion of Senator West and by unanimous consent, the exchange between Senators Hancock and West regarding **SB 5** was ordered reduced to writing and printed in the *Senate Journal* as follows:

President: Senator West, for what purpose?

Senator West: Question of the author.

President: Do you yield?

Senator Hancock: If for a question.

Senator West: Senator, in your bill, in Section 11, I think that, I don't have the page number. It's Section 11, Section 276.013, Election Fraud. Let me know when you get to it.

Senator Hancock: Okay.

Senator West: Okay. It says, a person commits an offense if the person knowingly, intentionally makes any effort to influence the independent exercise of the vote of another in the presence of the ballot during the voting process. Okay. That, right there, you know, I think we had this conversation yesterday, my concern about that language is, is that if you are living with a person that has a mail-in ballot, and you have a discussion concerning who that person should be voting for, is that a violation of this section?

Senator Hancock: If you're having the discussion, there's ample time. Obviously, this individual who's received the mail-in ballot is already engaged in the election process, therefore they've requested the mail-in ballot. You may have that discussion anytime prior to them requesting the mail-in ballot. You can have that discussion with them anytime up until the mail-in ballot is before them and they are ready to cast their vote. What we're trying to do with this provision, in leaving it this way, is really emulate what we have in the voting process for those that are eligible to make it to the polls. In other words, just like at the polls, a family member cannot look over your shoulder and tell you how to vote once you've gone to that box. And so, we want to maintain that same provision within this section.

Senator West: Alright, let's make certain we play this out, though. Alright, if you have requested a mail-in ballot and you're at home with your spouse, you're saying that at the time that I request the ballot, at the time I get ready to mark that ballot, my spouse cannot be present, by marking that ballot, saying who they're voting for? That would be a violation of this section.

Senator Hancock: Your, your spouse could be present, but just as in the voting area, with the election judges there, your ballot, your wife cannot, or you can't lean over to your wife and say, now, who should I vote for for this? Once you've taken that opportunity, it is your obligation, your responsibility, to cast that vote.

Senator West: I understand the responsibility. So, if I, as the spouse, look over my wife's shoulder, then I would be in violation of this section?

Senator Hancock: No. Only if you assist once she has the ballot and is ready to cast her vote.

Senator West: And assisting mean saying that I'm voting for Hilary Clinton, as an example.

Senator Hancock: Well, it would be the same definition as if you were in the polling booth.

Senator West: Okay, saying, trying to get that person to vote for a particular candidate, that would be assisting?

Senator Hancock: Well, we're maintaining the same provision that you would have if you were actually active, going to the polling booth. You have that, and you're about to cast your vote.

Senator West: Okay. And, and again, I think it's real important that we have intent in the record, because I'm going to ask that this be reduced to writing, because I think this particular section of the bill is somewhat problematic for family members, where a person is voting on a mail-in ballot. And so, you're saying the same process that would take place at a regular precinct ballot, a regular precinct where you're voting. Could you, if you know, talk about what the prohibitions would be, so that persons reading this record will have a clear indication of what it is, as I'm afraid I'm going to have to, probably, represent someone on a case coming out of this particular legislation.

Senator Hancock: Okay, so we address the family members in two other sections of the bill.

Senator West: No, I understand that. But does, in addressing family members, does it apply to this section also?

Senator Hancock: In this section you're treated as, the, any voter that would go to the polls.

Senator West: So, this does not apply to families?

Senator Hancock: In the same direction.

Senator West: So, this doesn't apply. You, you address family members, and, I think, in a very responsible way in other sections of the bill, but what I'm asking, how does that, how you address family members in other sections of the bill, apply to this particular Section 276?

Senator Hancock: An individual has the same protection as they do at the polling place.

Senator West: I'm sorry?

Senator Hancock: An individual has the same protections as they do if they go to the polling booth.

Senator West: Okay, so then, if the provisions in your bill that deal with family members do not apply to this particular section?

Senator Hancock: In this particular section, once you have your ballot, you're treated as every other citizen who has a ballot in the provisions of whether you can have assistance in voting at that point in time or not.

Senator West: Okay, so I'm, maybe I'm misunderstanding your response. You have clearly defined instances where family members can participate in other sections, correct?

Senator Hancock: Correct.

Senator West: Those instances apply to this particular section also. Because in those sections you have the information about family members and everything else, but there's nothing in this particular section about family members.

Senator Hancock: Correct.

Senator West: And I would think that those sections apply when you talk about family members and individuals living with the person that's receiving the ballot and the assistance, et cetera, et cetera, that applies to that particular section. But I don't see where those sections, where you have that, apply to this 276 section.

Senator Hancock: Where it's mentioned is the section in which they apply.

Senator West: Alright, so it does not apply if it's not mentioned in the section, it does not apply and the regular, I guess you could say, law pertaining to participation and assistance in voting at a voting booth applies in this particular section.

Senator Hancock: Where we've addressed the family members is the section where the family members do apply.

Senator West: Okay, so then, if it's not addressed in this section then there is the possibility that a family member looking over my shoulder and saying you should vote for Senator Van Taylor, that person would, could be in violation of the law.

Senator Hancock: In this section—

Senator West: Of this section, of this section.

Senator Hancock: —an individual who has a ballot is treated the same as any other member of the public who has a ballot, with the restrictions of who can assist and not assist, and the responsibility and the privacy that they have once they have the ballot in their possession.

Senator West: Okay, so then if, if they would be in violation of assisting someone with a ballot at a polling place, they would be in violation of assisting someone with a ballot at home. That's what you're saying.

Senator Hancock: That's what we're saying.

Senator West: Do you think that that's reasonable?

Senator Hancock: Yes, Sir.

Senator West: Okay. Well, I mean, I think that that ends up being something that I, and you know, this is going to probably pass in here, but I think that ends up being a very problematic from a practical standpoint. Because you end up having people over 65 years old, and if they are talking about who they're voting for, frankly, they're going to be sitting around a table for the most part. And you may end up having, and this is, from a practical matter, you may have two elderly, two persons over, two persons over 70 years old, since I'm getting close to 65, that ask for a mail-in ballot, and they're sitting around the table, and they're talking, and both of them are, frankly, filling out their ballot. And then they, they're conversing about how to fill it out. I mean, that's practical, that happens. And so, under this particular section, both of them could be charged with a criminal offense, because they will be assisting one another in filling out those ballots. Would you not agree?

Senator Hancock: I agree that a person, whether they're 65 or older, whether a person's disabled, they deserve the same privacy and protections as the voters that can actually make it to the polls. So, when we're dealing with the disabled, when we're dealing, dealing with the elderly, I think they deserve the same privacy, the same protection as every other voter. I do agree with that.

Senator West: And, you know, I, and I don't disagree with you there. I'm just saying, from a practical standpoint, and I'm, I, we won't keep on going down this road, but from a practical standpoint, if you have two senior citizens that ask for a mail-in ballot and both of them are sitting around the kitchen table filling out that mail-in ballot, talking about the election, they would run afoul of your Section 276.013, i.e., influencing the independent exercise of a vote of another in the presence of the ballot. That's what, that's what they would do, Sir. And I just wanted to make certain that we had this conversation to find out what your legislative intent was. What I heard you say is that if they sit around a kitchen table, talking about the election, while they are exercising their right to vote, that they, and they're trying to influence one another, all of which are fact questions, they could conceivably run afoul of this new law that you're proposing. And, and doesn't require response, but I just want make sure.

Senator Hancock: Well, I'll be happy to, to provide one.

Senator West: Okay, go ahead.

Senator Hancock: I think the disabled and the el— elderly deserve the same privacy and protections as every other voter, and I think that's pretty consistent.

Senator West: Well, no, you've been very consistent on that. I'm just giving, I'm giving you a practical scenario that occurs, pretty much, in a lot of households, you know. And I don't, frankly, I want to, supportive of your bill, as I've told you, because I understand there is a problem. But I don't want to make, I want to make certain that there are no traps that we have. In fact, the district attorney's office has basically said this is unworkable right here, Dallas County District Attorney's office, in responding to the election administrators. This particular section, it's kind of unworkable, okay? In responding to the Dallas County Election Administrator, that it's very problematic. And so, Sir, I just wanted to make certain I brought that out and tried to figure out whether or not as this bill try, goes through the process, you'd be willing to work on this section to make certain those type of situations are dealt with, so that we don't criminalize certain behavior that's basically innocent behavior, where two people are sitting down, conversing, both of which are elderly and wouldn't be able to make it to the ballot. So, would you be able, willing to work with me through the process on this?

Senator Hancock: Senator West, I appreciate that. What that would require was a family member to actually bring that forward, before somebody else. I really don't really foresee that happening.

Senator West: Okay.

Senator Hancock: I think that it is important that we maintain that an elderly or a disabled individual has the same legal privacy and protection of every other voter. And so, I would prefer to keep this piece as is.

Senator West: Okay. And, and that's fine. Okay. And with that, Sir, I really wanted, I really wanted to be instructive and help in this particular process, but I see this as a potential trap for senior citizens that ask for ballots and are sitting around the table, frankly, just trying to figure out who they're going to be voting for. They are influencing one another in that situation. And with that, I wanted to vote for this bill, I wanted to offer some constructive amendments, I wanted to work with you on this particular bill, but with this, Sir, I can't, in all due respect, support the bill. Thank you.

Senator Hancock: I appreciate that. Thank you, Senator West.

SENATE BILL 6 ON SECOND READING

The President laid before the Senate **SB 6** by Senator Campbell at this time on its second reading:

SB 6, Relating to municipal annexation.

The bill was read second time.

Senator Campbell offered the following amendment to the bill:

Floor Amendment No. 1

Amend **SB 6** (senate committee printing) as follows:

(1) In SECTION 4 of the bill, strike added Section 43.0117(b), Local Government Code (page 2, lines 33-41), and substitute the following:

(b) Notwithstanding any other law, a municipality may annex for full or limited purposes any part of the area located within one-quarter mile of the boundaries of a military base in which an active training program is conducted only if the municipality and the military base enter into a memorandum of agreement to establish provisions to maintain the compatibility of the municipality's regulation of land in the area with the military base operations following the annexation.

(2) In SECTION 26 of the bill, strike added Section 43.0681, Local Government Code (page 8, lines 42-45), and substitute the following:

Sec. 43.0681. AUTHORITY TO ANNEX. A municipality may annex an area with a population of less than 200 only if the following conditions are met, as applicable:

(1) the municipality obtains consent to annex the area through a petition signed by more than 50 percent of the registered voters of the area; and

(2) if the registered voters of the area do not own more than 50 percent of the land in the area, the petition described by Subdivision (1) is signed by more than 50 percent of the owners of land in the area.

(3) In SECTION 26 of the bill, in added Section 43.0683, Local Government Code (page 9, line 6), between "resident" and "in", insert "and property owner".

(4) In SECTION 26 of the bill, in added Section 43.0685, Local Government Code (page 9, line 19), strike "The" and substitute "Except as provided by Subsection (a-1), the".

(5) In SECTION 26 of the bill, between added Sections 43.0685(a) and (b), Local Government Code (page 9, between lines 21 and 22), insert the following:

(a-1) If the registered voters of the area proposed to be annexed do not own more than 50 percent of the land in the area, the petition required by Section 43.0681 may also be signed by the owners of land in the area that are not registered voters. Notwithstanding Subsection (e), the municipality may provide for an owner of land in the area that is not a resident of the area to sign the petition electronically.

(a-2) The petition must clearly indicate that the person is signing as a registered voter of the area, an owner of land in the area, or both.

(6) In SECTION 26 of the bill, in added Section 43.0686(a), Local Government Code (page 9, lines 37-38), between "residents" and "of", insert "and property owners".

(7) In SECTION 26 of the bill, in added Section 43.0695(b), Local Government Code (page 11, lines 3-4), strike "Section 43.0685" and substitute "Sections 43.0685(b)-(e)".

The amendment to **SB 6** was read and was adopted by the following vote: Yeas 20, Nays 11.

Yeas: Bettencourt, Birdwell, Buckingham, Burton, Campbell, Creighton, Estes, Hall, Hancock, Huffines, Huffman, Hughes, Kolkhorst, Nelson, Nichols, Perry, Schwertner, Seliger, Taylor of Galveston, Taylor of Collin.

Nays: Garcia, Hinojosa, Lucio, Menéndez, Miles, Rodríguez, Uresti, Watson, West, Whitmire, Zaffirini.

Senator Schwertner offered the following amendment to the bill:

Floor Amendment No. 2

Amend **SB 6** (senate committee printing) in SECTION 1 of the bill, in added Sections 43.001(2) and (3), Local Government Code (page 1, lines 28 and 30), by striking "500,000" and substituting "125,000".

The amendment to **SB 6** was read and was adopted by the following vote: Yeas 20, Nays 11.

Yeas: Bettencourt, Birdwell, Buckingham, Burton, Campbell, Creighton, Estes, Hall, Hancock, Huffines, Huffman, Hughes, Kolkhorst, Nelson, Nichols, Perry, Schwertner, Seliger, Taylor of Galveston, Taylor of Collin.

Nays: Garcia, Hinojosa, Lucio, Menéndez, Miles, Rodríguez, Uresti, Watson, West, Whitmire, Zaffirini.

Senator Menéndez offered the following amendment to the bill:

Floor Amendment No. 3

Amend **SB 6** (senate committee printing) in SECTION 4 of the bill, in added Section 43.0117(b), Local Government Code (page 2, line 35), by striking "one-quarter mile" and substituting "five miles".

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The amendment to **SB 6** was read and failed of adoption by the following vote: Yeas 11, Nays 20.

Yeas: Garcia, Hinojosa, Lucio, Menéndez, Miles, Rodríguez, Uresti, Watson, West, Whitmire, Zaffirini.

Nays: Bettencourt, Birdwell, Buckingham, Burton, Campbell, Creighton, Estes, Hall, Hancock, Huffines, Huffman, Hughes, Kolkhorst, Nelson, Nichols, Perry, Schwertner, Seliger, Taylor of Galveston, Taylor of Collin.

Senator Birdwell offered the following amendment to the bill:

Floor Amendment No. 4

Amend **SB 6** (senate committee printing) in SECTION 26 of the bill as follows:

(1) In added Section 43.0686(b), Local Government Code (page 9, line 42), strike "first" and substitute "second".

(2) In added Section 43.0697(b), Local Government Code (page 11, line 34), strike "first" and substitute "second".

The amendment to **SB 6** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 4 except as follows:

Nays: Garcia, Hinojosa, Lucio, Menéndez, Miles, Rodríguez, Uresti, Watson, West, Whitmire, Zaffirini.

Senator Menéndez offered the following amendment to the bill:

Floor Amendment No. 5

Amend **SB 6** (senate committee printing) in SECTION 26 of the bill, in added Subchapter C-5, Chapter 43, Local Government Code, as follows:

(1) Strike Section 43.0691 (page 10, lines 7-17) and substitute the following:

Sec. 43.0691. AUTHORITY TO ANNEX. A municipality may annex an area with a population of 200 or more only if the municipality holds an election at which the qualified voters of the area proposed to be annexed and the municipality may vote on the question of the annexation and a majority of the votes received at the election approve the annexation.

(2) Immediately after Section 43.0694(b) (page 10, between lines 64 and 65), insert the following appropriately lettered subsection:

() The municipality must post notice of the hearings on the municipality's Internet website if the municipality has an Internet website and publish notice of the hearings in a newspaper of general circulation in the municipality and in the area proposed for annexation. The notice for each hearing must be published at least once on or after the 20th day but before the 10th day before the date of the hearing. The notice for each hearing must be posted on the municipality's Internet website on or after the 20th day but before the 10th day before the date of the hearing and must remain posted until the date of the hearing.

(3) Strike Section 43.0695 (page 10, line 65, through page 11, line 8).

(4) Strike Section 43.0696(a) (page 11, lines 9-16) and substitute the following:

(a) A municipality shall order an election on the question of annexing an area to be held on the first uniform election date that falls on or after the 90th day after the date the governing body of the municipality adopts the resolution under Section 43.0692.

(5) In the heading to Section 43.0697 (page 11, line 23), strike "AND PETITION".

(6) In Section 43.0697(a) (page 11, lines 26-27), strike "of the results of the election and, if applicable, of the petition required by Section 43.0695" and substitute "and of the municipality of the results of the election".

(7) In Section 43.0697(b) (page 11, lines 29-32), strike "or if the municipality is required to petition owners of land in the area under Section 43.0695 and does not obtain the required number of signatures".

(8) In Section 43.0697(c) (page 11, lines 37-39), strike "and if the municipality, as applicable, obtains the required number of petition signatures under Section 43.0695".

(9) Strike Section 43.0698 (page 11, lines 47-56).

(10) Renumber sections of Subchapter C-5 and references to those sections accordingly.

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The amendment to **SB 6** was read and failed of adoption by the following vote: Yeas 11, Nays 20.

Yeas: Garcia, Hinojosa, Lucio, Menéndez, Miles, Rodríguez, Uresti, Watson, West, Whitmire, Zaffirini.

Nays: Bettencourt, Birdwell, Buckingham, Burton, Campbell, Creighton, Estes, Hall, Hancock, Huffines, Huffman, Hughes, Kolkhorst, Nelson, Nichols, Perry, Schwertner, Seliger, Taylor of Galveston, Taylor of Collin.

Senator Uresti offered the following amendment to the bill:

Floor Amendment No. 6

Amend **SB 6** (senate committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering SECTIONS of the bill accordingly:

SECTION _____. Chapter 229, Local Government Code, is amended by adding Subchapter C to read as follows:

SUBCHAPTER C. REGULATION OF LAND USE OR DEVELOPMENT NEAR MILITARY BASE

Sec. 229.101. DEFINITION. In this subchapter, "military base" means a presently functioning federally owned or operated military installation or facility.

Sec. 229.102. REGULATION OF LAND USE OR DEVELOPMENT PERMITTED. Notwithstanding any other law, if a military base's most recent joint land use study recommends municipal regulation of certain land use or development in an area near the military base that is within the municipality's jurisdiction, the municipality may adopt and enforce an ordinance regulating the land use or development in the area in the manner recommended by the study.

The amendment to **SB 6** was read and failed of adoption by the following vote: Yeas 11, Nays 20.

Yeas: Garcia, Hinojosa, Lucio, Menéndez, Miles, Rodríguez, Uresti, Watson, West, Whitmire, Zaffirini.

Nays: Bettencourt, Birdwell, Buckingham, Burton, Campbell, Creighton, Estes, Hall, Hancock, Huffines, Huffman, Hughes, Kolkhorst, Nelson, Nichols, Perry, Schwertner, Seliger, Taylor of Galveston, Taylor of Collin.

Senator Menéndez offered the following amendment to the bill:

Floor Amendment No. 7

Amend **SB 6** (senate committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering SECTIONS of the bill accordingly:

SECTION _____. The changes in law made by this Act do not apply to an area that is the subject of an annexation agreement entered into before the effective date of this Act by a municipality with a population of more than 1.3 million and less than two million according to the 2010 federal decennial census. An annexation occurring under the terms of and at the expiration of a period designated in an agreement described by this section is governed by the law in effect at the time the agreement was approved by the municipality, and the former law is continued in effect for that purpose.

MENÉNDEZ
URESTI

The amendment to **SB 6** was read and failed of adoption by the following vote: Yeas 11, Nays 20.

Yeas: Garcia, Hinojosa, Lucio, Menéndez, Miles, Rodríguez, Uresti, Watson, West, Whitmire, Zaffirini.

Nays: Bettencourt, Birdwell, Buckingham, Burton, Campbell, Creighton, Estes, Hall, Hancock, Huffines, Huffman, Hughes, Kolkhorst, Nelson, Nichols, Perry, Schwertner, Seliger, Taylor of Galveston, Taylor of Collin.

Senator Menéndez offered the following amendment to the bill:

Floor Amendment No. 8

Amend **SB 6** (senate committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering SECTIONS of the bill accordingly:

SECTION _____. The changes in law made by this Act do not apply to an area that is the subject of an agreement between a municipality with a population of more than 1.3 million and less than 1.5 million according to the 2010 federal decennial census and a municipality with a population of more than 18,050 and less than 18,200 according to the 2010 federal decennial census that contains a plan that is approved by the municipalities before the effective date of this Act for phased boundary adjustments between the municipalities, releases of extraterritorial jurisdiction by the more populous municipality, and annexations by the less populous municipality. A municipal boundary adjustment, release of extraterritorial jurisdiction, or annexation contained in a plan under an agreement described by this section is governed by the law in effect at the time the agreement was approved by the municipalities, and the former law is continued in effect for that purpose.

MENÉNDEZ
URESTI

The amendment to **SB 6** was read and failed of adoption by the following vote: Yeas 11, Nays 20.

Yeas: Garcia, Hinojosa, Lucio, Menéndez, Miles, Rodríguez, Uresti, Watson, West, Whitmire, Zaffirini.

Nays: Bettencourt, Birdwell, Buckingham, Burton, Campbell, Creighton, Estes, Hall, Hancock, Huffines, Huffman, Hughes, Kolkhorst, Nelson, Nichols, Perry, Schwertner, Seliger, Taylor of Galveston, Taylor of Collin.

SB 6 as amended was passed to engrossment by the following vote: Yeas 19, Nays 12.

Yeas: Bettencourt, Birdwell, Buckingham, Burton, Campbell, Creighton, Estes, Hall, Hancock, Huffines, Huffman, Hughes, Kolkhorst, Nelson, Nichols, Perry, Schwertner, Taylor of Galveston, Taylor of Collin.

Nays: Garcia, Hinojosa, Lucio, Menéndez, Miles, Rodríguez, Seliger, Uresti, Watson, West, Whitmire, Zaffirini.

REMARKS ORDERED PRINTED

On motion of Senator Taylor of Collin and by unanimous consent, the remarks by Senators Campbell and Taylor of Collin regarding **SB 6** were ordered reduced to writing and printed in the *Senate Journal* as follows:

President: Senator Van Taylor.

Senator Taylor of Collin: Just want to add, ask a clarification question to the author.

President: Senator Campbell?

Senator Campbell: Yes.

Senator Taylor of Collin: Senator Campbell, certainly glad to be a joint author on this piece of legislation, look forward to voting for it. I just, as I read this amendment, I just wanted to be clear. I think, I think it's clear, but I just wanted to clear up any ambiguity for the record.

Senator Campbell: Yes.

Senator Taylor of Collin: It says in the event that they can't get 50 percent of the, if the voters don't own 50 percent of the land, then it's 50 percent of the owners of the land. And I just want to clarify that it's—

Senator Campbell: It has to be both, registered voters and.

Senator Taylor of Collin: Got it. But in the instance when you say land, you're talking about the surface area of the land, not the value of the land, correct?

Senator Campbell: Correct.

Senator Taylor of Collin: Okay.

Senator Campbell: Who owns the property.

Senator Taylor of Collin: Right, but in other words, if I have some very wealthy timber land, it's very valuable, and I have some, some desert land that's not as valuable within the space, it's the square footage of land.

Senator Campbell: Correct.

Senator Taylor of Collin: Not the values of the land or what's on the land or who lives on the land.

Senator Campbell: Correct.

Senator Taylor of Collin: Okay.

SENATE BILL 18 ON SECOND READING

The President laid before the Senate **SB 18** by Senator Estes at this time on its second reading:

SB 18, Relating to a limit on local government expenditures.

The bill was read second time.

Senator Estes moved to postpone further consideration of the bill to Monday, July 31, 2017.

The motion prevailed.

Question: Shall **SB 18** be passed to engrossment?

SENATE BILL 15 ON SECOND READING

The President laid before the Senate **SB 15** by Senator Huffines at this time on its second reading:

SB 15, Relating to prosecution of certain offenses involving and preemption of local regulation of the use of a wireless communication device while operating a motor vehicle.

The bill was read second time.

(Senator Huffman in Chair)

Senator Zaffirini offered the following amendment to the bill:

Floor Amendment No. 1

Amend **SB 15** (senate committee printing) by striking all below the enacting clause and substituting the following:

SECTION _____. The heading to Section 545.4251, Transportation Code, as effective September 1, 2017, is amended to read as follows:

Sec. 545.4251. **USE OF PORTABLE WIRELESS COMMUNICATION DEVICE WHILE OPERATING MOTOR VEHICLE** ~~[FOR ELECTRONIC MESSAGING]; OFFENSE.~~

SECTION _____. Section 545.4251, Transportation Code, as effective September 1, 2017, is amended by amending Subsections (a), (b), (c), (h), and (j) and adding Subsection (c-1) to read as follows:

(a) In this section:

(1) "Hands-free device" means speakerphone capability, a telephone attachment, or another function or other piece of equipment, regardless of whether permanently installed in or on a wireless communication device or in a motor vehicle, that allows use of the wireless communication device without use of either of the operator's hands, except to activate or deactivate a function of the wireless communication device or hands-free device. The term includes voice-operated technology and a push-to-talk function ~~["Electronic message" means data that is read from or entered into a wireless communication device for the purpose of communicating with another person].~~

(2) "Wireless communication device" means a device through which personal wireless services, as defined by 47 U.S.C. Section 332(c)(7)(C)(i), are transmitted. The term does not include a global navigation satellite system receiver used for positioning, emergency notification, or navigation purposes ~~[has the meaning assigned by Section 545.425].~~

(b) An operator commits an offense if the operator uses a portable wireless communication device ~~[to read, write, or send an electronic message]~~ while operating a motor vehicle unless the vehicle is stopped outside a lane of travel. To be prosecuted, the behavior must be committed in the presence of or within the view of a peace officer or established by other evidence.

(c) Except as provided by Subsection (c-1), it [H] is an affirmative defense to prosecution of an offense under this section that the operator used a portable wireless communication device:

(1) in conjunction with a hands-free device~~[-as defined by Section 545.425];~~ or

(2) ~~[to navigate using a global positioning system or navigation system; [G] to report illegal activity or[;] summon emergency help[-or enter information into a software application that provides information relating to traffic and road conditions to users of the application;~~

~~[(4) to read an electronic message that the person reasonably believed concerned an emergency;~~

~~[(5) that was permanently or temporarily affixed to the vehicle to relay information in the course of the operator's occupational duties between the operator and;~~

~~[(A) a dispatcher; or~~

~~[(B) a digital network or software application service; or~~

~~[(6) to activate a function that plays music].~~

(c-1) The affirmative defense in Subsection (c)(1) is not available for an offense under Subsection (b) committed by a person under 18 years of age or by a person operating a school bus with a minor passenger on the bus.

(h) The Texas Department of Transportation shall post a sign at each point at which an interstate highway or United States highway enters this state that informs an operator that:

(1) the use of a portable wireless communication device ~~[for electronic messaging]~~ while operating a motor vehicle is prohibited in this state; and

(2) the operator is subject to a fine if the operator uses a portable wireless communication device ~~[for electronic messaging]~~ while operating a motor vehicle in this state.

(j) This section preempts all local ordinances, rules, or other regulations adopted by a local authority ~~[political subdivision]~~ relating to the use of a portable wireless communication device by the operator of a motor vehicle ~~[to read, write, or send an electronic message].~~

SECTION _____. (a) Sections 545.424(f) and 545.4252, Transportation Code, are repealed.

(b) Sections 545.424(a), (b), and (g) and 545.425, Transportation Code, as effective September 1, 2017, are repealed.

(c) Section 545.4251(d), as effective September 1, 2017, is repealed.

SECTION _____. The changes in law made by this Act apply only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

SECTION _____. This Act takes effect September 1, 2017, if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for effect on that date, this Act takes effect on the 91st day after the last day of the legislative session.

The amendment to **SB 15** was read and failed of adoption by the following vote: Yeas 13, Nays 18.

Yeas: Garcia, Hinojosa, Huffman, Lucio, Menéndez, Miles, Rodríguez, Seliger, Uresti, Watson, West, Whitmire, Zaffirini.

Nays: Bettencourt, Birdwell, Buckingham, Burton, Campbell, Creighton, Estes, Hall, Hancock, Huffines, Hughes, Kolkhorst, Nelson, Nichols, Perry, Schwertner, Taylor of Galveston, Taylor of Collin.

SB 15 was passed to engrossment by the following vote: Yeas 19, Nays 12.

Yeas: Bettencourt, Birdwell, Buckingham, Burton, Campbell, Creighton, Estes, Hall, Hancock, Huffines, Huffman, Hughes, Kolkhorst, Nelson, Nichols, Perry, Schwertner, Taylor of Galveston, Taylor of Collin.

Nays: Garcia, Hinojosa, Lucio, Menéndez, Miles, Rodríguez, Seliger, Uresti, Watson, West, Whitmire, Zaffirini.

COMMITTEE SUBSTITUTE SENATE BILL 13 ON SECOND READING

The Presiding Officer laid before the Senate **CSSB 13** by Senator Burton at this time on its second reading:

CSSB 13, Relating to the issuance of a permit by a political subdivision.

The bill was read second time.

Senator Burton offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSSB 13** (senate committee printing) by striking all below the enacting clause and substituting the following:

SECTION 1. Section 214.904, Local Government Code, is amended to read as follows:

Sec. 214.904. PROCEDURES AND PERIOD ~~[TIME]~~ FOR APPROVAL OR DENIAL ~~[ISSUANCE]~~ OF MUNICIPAL ~~[BUILDING]~~ PERMIT APPLICATIONS; PROHIBITED PERMIT REQUIREMENTS. (a) In this section, "permit" and "project" have the meanings assigned by Section 245.001.

(a-1) This section applies ~~[only]~~ to any ~~[a]~~ permit required by a municipality that relates to any project ~~[to erect or improve a building or other structure in the municipality or its extraterritorial jurisdiction].~~

(b) Not later than the 30th ~~[45th]~~ day after the date an application for a permit is submitted, the municipality must:

- (1) grant or make a preliminary determination to deny the permit;
- (2) provide written notice to the applicant stating the reasons why the municipality has been unable to act on ~~[grant or deny]~~ the permit application; or

(3) reach a written agreement with the applicant providing for a deadline not later than the 120th day after the date the application was submitted for granting or denying the permit.

(c) For a permit application for which notice is provided under Subsection (b)(2), the municipality must grant or make a preliminary determination to deny the permit not later than the 15th ~~30th~~ day after the date the notice is received. A municipality may extend the period for the municipality to act on an application under this subsection once by an additional 15 days.

(d) If a municipality fails to act on ~~[grant or deny]~~ a permit application within ~~in~~ the period ~~[time]~~ required by Subsection (c) or by an agreement under Subsection (b)(3), the permit application is considered approved and the municipality:

(1) may not collect any permit fees associated with the application; ~~and~~

(2) shall refund to the applicant any permit fees associated with the application that have been collected; and

(3) shall issue the permit.

(e) If a municipality makes a preliminary determination to deny a permit application, the municipality must send written notice of the determination to the applicant not later than the first business day after the date the determination is made stating:

(1) each deficiency that is a reason for the determination, including a citation to the specific ordinance, order, regulation, or policy relevant to the determination;

(2) the specific actions required by the applicant to remedy each specified deficiency; and

(3) a deadline not earlier than the 30th day after the date the notice is sent for the applicant to complete the remedial actions specified in the notice before the denial becomes final.

(f) If the municipality makes a reasonable determination that a new deficiency has arisen from a remedial action taken by the applicant, the municipality must send written notice not later than the first business day after the date the determination is made stating:

(1) each new deficiency, including a citation to the specific ordinance, order, regulation, or policy relevant to the deficiency;

(2) the specific actions required by the applicant to remedy each specified deficiency; and

(3) a new deadline not earlier than the 30th day after the date the notice is sent under this subsection for the applicant to complete all of the remedial actions.

(g) If an applicant substantially completes the remedial actions specified in the notice under Subsection (e) and, if applicable, Subsection (f) within the period required, the applicant may request reconsideration of the determination. The municipality shall grant the permit if the municipality determines the applicant has substantially completed the specified remedial actions. Not later than the 15th day after the date the applicant's request for reconsideration is received, the municipality shall send the applicant written notice of a final determination to grant or deny a

permit application. If the municipality fails to send notice of a final determination within the period required by this subsection, the permit application is considered approved and the municipality shall issue the permit.

(h) Written notice of the municipality's final determination that a permit is denied must include the information required by Subsections (e)(1) and (2) and, if applicable, Subsections (f)(1) and (2) in addition to written findings of the reasons the municipality determined that any remedial actions taken by the applicant were insufficient to correct the deficiencies specified in the notice provided under Subsection (e) or (f).

(i) Any final determination that a permit is denied may not be based on:

(1) a reason or remedial requirement that was not previously disclosed to the applicant in the notice required under Subsection (e) or (f); or

(2) a requirement for the applicant to comply with any ordinance, order, regulation, or policy that is not substantially related to the project for which the permit is required.

(j) A municipality may not adopt or enforce an ordinance, order, regulation, or policy relating to granting or denying a permit that:

(1) restricts or prohibits the right of an applicant to reapply for a permit that was the subject of a denied permit application;

(2) requires a private employer to offer wages higher than the wages required under Chapter 62, Labor Code; or

(3) authorizes on-site monitoring of a private employer by a nongovernmental entity.

(k) The right of a permit applicant to the issuance of a determination or a permit as required by this section may be enforced only through mandamus or declaratory or injunctive relief. A municipality's immunity from suit is waived in regard to an action under this section.

SECTION 2. Section 233.901, Local Government Code, is amended to read as follows:

Sec. 233.901. PROCEDURES AND PERIOD [TIME] FOR APPROVAL OR DENIAL [ISSUANCE] OF COUNTY [BUILDING] PERMIT APPLICATIONS; PROHIBITED PERMIT REQUIREMENTS. (a) In this section, "permit" and "project" have the meanings assigned by Section 245.001.

(a-1) This section applies [only] to any [a] permit required by a county that relates to any project [with a population of 3.3 million or more to construct or improve a building or other structure in the county], but does not apply to a permit for an on-site sewage disposal system.

(b) Not later than the 30th [45th] day after the date an application for a permit is submitted, the county must:

(1) grant or make a preliminary determination to deny the permit;

(2) provide written notice to the applicant stating the reasons why the county has been unable to act on the permit application; or

(3) reach a written agreement with the applicant providing for a deadline not later than the 120th day after the date the application was submitted for granting or denying the permit.

(c) For a permit application for which notice is provided under Subsection (b)(2), the county must grant or make a preliminary determination to deny the permit not later than the 15th ~~30th~~ day after the date the notice is received. A county may extend the period for the county to act on an application under this subsection once by an additional 15 days.

(d) If a county fails to act on a permit application within ~~in~~ the period ~~time~~ required by Subsection (c) or by an agreement under Subsection (b)(3), the permit application is considered approved and the county:

(1) may not collect any permit fees associated with the application; ~~and~~

(2) shall refund to the applicant any permit fees associated with the application that have been collected; and

(3) shall issue the permit.

(e) If a county makes a preliminary determination to deny a permit application, the county must send written notice of the determination to the applicant not later than the first business day after the date the determination is made stating:

(1) each deficiency that is a reason for the determination, including a citation to the specific ordinance, order, regulation, or policy relevant to the determination;

(2) the specific actions required by the applicant to remedy each specified deficiency; and

(3) a deadline not earlier than the 30th day after the date the notice is sent for the applicant to complete the remedial actions specified in the notice before the denial becomes final.

(f) If the county makes a reasonable determination that a new deficiency has arisen from a remedial action taken by the applicant, the county must send written notice not later than the first business day after the date the determination is made stating:

(1) each new deficiency, including a citation to the specific ordinance, order, regulation, or policy relevant to the deficiency;

(2) the specific actions required by the applicant to remedy each specified deficiency; and

(3) a new deadline not earlier than the 30th day after the date the notice is sent under this subsection for the applicant to complete all of the remedial actions.

(g) If an applicant substantially completes the remedial actions specified in the notice under Subsection (e) and, if applicable, Subsection (f) within the period required, the applicant may request reconsideration of the determination. The county shall grant the permit if the county determines the applicant has substantially completed the specified remedial actions. Not later than the 15th day after the date the applicant's request for reconsideration is received, the county shall send the applicant written notice of a final determination to grant or deny a permit application. If the county fails to send notice of a final determination within the period required by this subsection, the permit application is considered approved and the county shall issue the permit.

(h) Written notice of the county's final determination that a permit is denied must include the information required by Subsections (e)(1) and (2) and, if applicable, Subsections (f)(1) and (2) in addition to written findings of the reasons the county determined that any remedial actions taken by the applicant were insufficient to correct the deficiencies specified in the notice provided under Subsection (e) or (f).

(i) Any final determination that a permit is denied may not be based on:

(1) a reason or remedial requirement that was not previously disclosed to the applicant in the notice required under Subsection (e) or (f); or

(2) a requirement for the applicant to comply with any ordinance, order, regulation, or policy that is not substantially related to the project for which the permit is required.

(j) A county may not adopt or enforce an ordinance, order, regulation, or policy relating to granting or denying a permit that:

(1) restricts or prohibits the right of an applicant to reapply for a permit that was the subject of a denied permit application;

(2) requires a private employer to offer wages higher than the wages required under Chapter 62, Labor Code; or

(3) authorizes on-site monitoring of a private employer by a nongovernmental entity.

(k) The right of a permit applicant to the issuance of a determination or a permit as required by this section may be enforced only through mandamus or declaratory or injunctive relief. A county's immunity from suit is waived in regard to an action under this section.

(l) Nothing in this section shall be construed to authorize a county to require a permit to undertake a project in the county.

SECTION 3. Chapter 250, Local Government Code, is amended by adding Section 250.010 to read as follows:

Sec. 250.010. EXPEDITED PERMITTING PROCEDURES. (a) In this section, "permit" and "political subdivision" have the meanings assigned by Section 245.001.

(b) This title does not prohibit a political subdivision from adopting procedures to provide a shorter period than provided by law for the approval of a permit.

(c) Any ordinance, order, regulation, or policy providing procedures for the expedited approval of a permit must comply with the requirements of other law, other than the period for the approval of a permit.

(d) A procedure authorized by this section may not:

(1) restrict or prohibit the right of an applicant to reapply for a permit that was the subject of a denied expedited permit application; or

(2) include any additional conditions or requirements for the expedited approval of the permit, other than a reasonable fee to offset the increased costs of expediting the permit.

SECTION 4. The changes in law made by this Act apply only to a permit application filed on or after the effective date of this Act. An application filed before the effective date of this Act is governed by the law in effect immediately before the effective date of this Act, and the former law is continued in effect for that purpose.

SECTION 5. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect December 1, 2017.

The amendment to **CSSB 13** was read.

(President in Chair)

Senator Burton offered the following amendment to Floor Amendment No. 1:

Floor Amendment No. 2

Amend the proposed Floor Amendment No. 1 to **CSSB 13** (85S11497) as follows:

(1) In SECTION 1 of the bill, strike amended Section 214.904(b), Local Government Code (page 1, lines 14-23), and substitute the following:

(b) Not later than the 30th ~~[45th]~~ day after the date an application for a permit is submitted, the municipality must:

(1) grant or make a preliminary determination to deny the permit;
 (2) provide written notice to the applicant stating the reasons why the municipality has been unable to act on ~~[grant or deny]~~ the permit application; ~~[or]~~

(3) reach a written agreement with the applicant providing for a deadline not later than the 120th day after the date the application was submitted for granting or denying the permit; or

(4) grant conditional approval of the permit and provide written notice to the applicant stating:

(A) the applicant has met the municipality's requirements for the permit;

(B) the municipality has not received documentation of state or federal approval relating to the permit that is required under state or federal law;

(C) the municipality is granting conditional approval of the permit; and

(D) the municipality will grant final approval of the permit or deny the permit, as applicable, on the date the municipality receives documentation of the state or federal approval or disapproval.

(2) In SECTION 1 of the bill, immediately after amended Section 214.904(c), Local Government Code (after page 1, line 29), insert the following:

(c-1) For a permit application for which notice is provided under Subsection (b)(4), the municipality must grant the final approval of the permit or deny the permit, as applicable, on the date the municipality receives documentation of the state or federal approval or disapproval relating to the permit.

(3) In SECTION 1 of the bill, in amended Section 214.904(d), Local Government Code (page 2, line 3), between "Subsection (c)" and "or by an agreement", insert "or (c-1)".

(4) In SECTION 1 of the bill, strike added Section 214.904(g), Local Government Code (page 3, lines 5-17), and substitute the following:

(g) If an applicant substantially completes the remedial actions specified in the notice under Subsection (e) and, if applicable, Subsection (f) within the period required, the applicant may request reconsideration of the determination. If the municipality determines the applicant has substantially completed the specified remedial actions, the municipality shall:

(1) grant the permit; or

(2) conditionally approve the permit, if the municipality has not received documentation of state or federal approval relating to the permit that is required under state or federal law.

(g-1) Not later than the 15th day after the date the applicant's request for reconsideration is received, the municipality shall send the applicant written notice of:

(1) a final determination to grant or deny the permit; or

(2) a determination to conditionally approve the permit until state or federal approval or disapproval relating to the permit is received.

(g-2) If the municipality fails to send notice of a final determination to grant or deny a permit within the period required by Subsection (g-1), the permit application is considered approved and the municipality shall issue the permit. If the municipality fails to send notice of a conditional approval of the permit within the period required by Subsection (g-1), the permit application is considered conditionally approved by the municipality and the municipality shall issue or deny the permit, as applicable, on the date the municipality receives documentation of the state or federal approval or disapproval relating to the permit.

(5) In SECTION 2 of the bill, strike amended Section 233.901(b), Local Government Code (page 4, line 28, through page 5, line 6), and substitute the following:

(b) Not later than the 30th [~~45th~~] day after the date an application for a permit is submitted, the county must:

(1) grant or make a preliminary determination to deny the permit;

(2) provide written notice to the applicant stating the reasons why the county has been unable to act on the permit application; ~~or~~

(3) reach a written agreement with the applicant providing for a deadline not later than the 120th day after the date the application was submitted for granting or denying the permit; or

(4) grant conditional approval of the permit and provide written notice to the applicant stating:

(A) the applicant has met the county's requirements for the permit;

(B) the county has not received documentation of state or federal approval relating to the permit that is required under state or federal law;

(C) the county is granting conditional approval of the permit; and

(D) the county will grant final approval of the permit or deny the permit, as applicable, on the date the county receives documentation of the state or federal approval or disapproval.

(6) In SECTION 2 of the bill, immediately after amended Section 233.901(c), Local Government Code (page 5, between lines 12 and 13), insert the following:

(c-1) For a permit application for which notice is provided under Subsection (b)(4), the county must grant the final approval of the permit or deny the permit, as applicable, on the date the county receives documentation of the state or federal approval or disapproval relating to the permit.

(7) In SECTION 2 of the bill, in amended Section 233.901(d), Local Government Code (page 5, line 14), between "Subsection (c)" and "or by an agreement", insert "or (c-1)".

(8) In SECTION 2 of the bill, strike added Section 233.901(g), Local Government Code (page 6, lines 16-28), and substitute the following:

(g) If an applicant substantially completes the remedial actions specified in the notice under Subsection (e) and, if applicable, Subsection (f) within the period required, the applicant may request reconsideration of the determination. If the county determines the applicant has substantially completed the specified remedial actions, the county shall:

(1) grant the permit; or

(2) conditionally approve the permit, if the county has not received documentation of state or federal approval relating to the permit that is required under state or federal law.

(g-1) Not later than the 15th day after the date the applicant's request for reconsideration is received, the county shall send the applicant written notice of:

(1) a final determination to grant or deny the permit; or

(2) a determination to conditionally approve the permit until state or federal approval or disapproval relating to the permit is received.

(g-2) If the county fails to send notice of a final determination to grant or deny a permit within the period required by Subsection (g-1), the permit application is considered approved and the county shall issue the permit. If the county fails to send notice of a conditional approval of the permit within the period required by Subsection (g-1), the permit application is considered conditionally approved by the county and the county shall issue or deny the permit, as applicable, on the date the county receives documentation of the state or federal approval or disapproval relating to the permit.

The amendment to Floor Amendment No. 1 to **CSSB 13** was read and was adopted by the following vote: Yeas 18, Nays 13.

Yeas: Bettencourt, Birdwell, Buckingham, Burton, Campbell, Creighton, Estes, Hall, Hancock, Huffines, Huffman, Hughes, Kolkhorst, Nelson, Nichols, Perry, Schwertner, Taylor of Collin.

Nays: Garcia, Hinojosa, Lucio, Menéndez, Miles, Rodríguez, Seliger, Taylor of Galveston, Uresti, Watson, West, Whitmire, Zaffirini.

Senator Huffines offered the following amendment to Floor Amendment No. 1:

Floor Amendment No. 3

Amend Floor Amendment No. 1 by Burton to **CSSB 13** as follows:

(1) In SECTION 3 of the amendment insert the following section:

Sec. 250.011. ENFORCEMENT OF CERTAIN CHAPTERS. (a) Chapter 214 and Chapter 233 of this code, including a procedural requirement under those chapters, may be enforced by any aggrieved person by filing suit for a writ of mandamus or for declaratory or injunctive relief.

(b) A political subdivision's governmental immunity from suit is waived in regard to an action under Chapter 214 or Chapter 233 of this code.

(c) A political subdivision may not file a plea to the jurisdiction in response to a claim under Chapter 214 or Chapter 233 of this code.

(d) A person who prevails in an action under this section is entitled to the prompt payment of applicable costs, including expert witness fees, and to reasonable attorney's fees.

SECTION ____ . Section 250.011, Local Government Code, as added by this Act, applies only to a violation that occurs on or after the effective date of this Act. A violation that occurs before the effective date of this Act is governed by the law in effect on the date the violation occurred, and the former law is continued in effect for that purpose. For purposes of this section, a violation occurred before the effective date of this Act if any element of the violation occurred before that date.

The amendment to Floor Amendment No. 1 to **CSSB 13** was read.

Senator Huffines withdrew Floor Amendment No. 3.

Senator Menéndez offered the following amendment to Floor Amendment No. 1:

Floor Amendment No. 4

Amend Floor Amendment No. 1 to **CSSB 13** (senate committee printing), as follows:

(1) In SECTION 1 of the bill, in amended Section 214.904, Local Government Code, add the following appropriately lettered subsection and redesignate subsections and cross-references to those subsections accordingly:

() Notwithstanding any other provision of this section, a municipality may require remedial action for a deficiency relating to a project to ensure the health, safety, and welfare of individuals if the deficiency is discovered or arises after the issuance of a permit for the project under this section.

(2) In SECTION 2 of the bill, in amended Section 233.901, Local Government Code, add the following appropriately lettered subsection and redesignate subsections and cross-references to those subsections accordingly:

() Notwithstanding any other provision of this section, a county may require remedial action for a deficiency relating to a project to ensure the health, safety, and welfare of individuals if the deficiency is discovered or arises after the issuance of a permit for the project under this section.

The amendment to Floor Amendment No. 1 to **CSSB 13** was read and failed of adoption by the following vote: Yeas 12, Nays 18, Present-not voting 1.

Yeas: Garcia, Hinojosa, Lucio, Menéndez, Miles, Rodríguez, Seliger, Uresti, Watson, West, Whitmire, Zaffirini.

Nays: Bettencourt, Birdwell, Buckingham, Burton, Campbell, Creighton, Estes, Hall, Hancock, Huffines, Huffman, Hughes, Kolkhorst, Nelson, Nichols, Perry, Schwertner, Taylor of Collin.

Present-not voting: Taylor of Galveston.

Senator Watson offered the following amendment to Floor Amendment No. 1:

Floor Amendment No. 5

Amend the proposed Floor Amendment No. 1 to **CSSB 13** (85S11497) as follows:

(1) On page 2, line 15 between "(1)" and "each" insert "a plain language description of".

(2) On page 2, strike lines 18-19 and renumber the remaining subsection accordingly.

(3) On page 2, line 28 between "(1)" and "each" insert "a plain language description of".

(4) On page 2, strike line 31 and on page 3, strike line 1, and renumber the remaining subsection accordingly.

(5) On page 5, line 26 between "(1)" and "each" insert "a plain language description of".

(6) On page 5, strike lines 29-30 and renumber the remaining subsection accordingly.

(7) On page 6, line 8 between "(1)" and "each" insert "a plain language description of".

(8) On page 6, strike lines 11-12 and renumber the remaining subsection accordingly.

The amendment to Floor Amendment No. 1 to **CSSB 13** was read.

Senator Watson withdrew Floor Amendment No. 5.

Question recurring on the adoption of Floor Amendment No. 1 to **CSSB 13**, the amendment as amended was adopted by the following vote: Yeas 18, Nays 13.

Yeas: Bettencourt, Birdwell, Buckingham, Burton, Campbell, Creighton, Estes, Hall, Hancock, Huffines, Huffman, Hughes, Kolkhorst, Nelson, Nichols, Perry, Schwertner, Taylor of Collin.

Nays: Garcia, Hinojosa, Lucio, Menéndez, Miles, Rodríguez, Seliger, Taylor of Galveston, Uresti, Watson, West, Whitmire, Zaffirini.

CSSB 13 as amended was passed to engrossment by the following vote: Yeas 18, Nays 13.

Yeas: Bettencourt, Birdwell, Buckingham, Burton, Campbell, Creighton, Estes, Hall, Hancock, Huffines, Huffman, Hughes, Kolkhorst, Nelson, Nichols, Perry, Schwertner, Taylor of Collin.

Nays: Garcia, Hinojosa, Lucio, Menéndez, Miles, Rodríguez, Seliger, Taylor of Galveston, Uresti, Watson, West, Whitmire, Zaffirini.

**COMMITTEE SUBSTITUTE
SENATE BILL 14 ON SECOND READING**

The President laid before the Senate **CSSB 14** by Senator Hall at this time on its second reading:

CSSB 14, Relating to a property owner's right to remove a tree or vegetation.

The bill was read second time.

Senator Creighton offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSSB 14** (senate committee report) in SECTION 3 of the bill by striking added Section 250.009(b), Local Government Code (page 1, lines 43-53), and substituting the following:

(b) This section does not prevent the adoption or enforcement by a municipality, county, or other political subdivision of:

(1) a provision in a dedicatory instrument, as defined by Section 202.001, Property Code, or restriction, as defined by Section 212.152 of this code, that restricts the ability of a property owner to remove a tree or vegetation on the owner's property, including a standard, bylaw, rule, or regulation enforcing a provision of a dedicatory instrument or restriction that requires the owner to obtain approval for the removal or file an affidavit, application, or notice before the removal; or

(2) an ordinance, rule, or other regulation designed to mitigate tree-borne diseases as recommended by the Texas A&M Forest Service.

The amendment to **CSSB 14** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1 except as follows:

Present-not voting: Huffines.

Senator Zaffirini offered the following amendment to the bill:

Floor Amendment No. 2

Amend **CSSB 14** (senate committee printing) in SECTION 3 of the bill as follows:

(1) In added Section 250.009(b), Local Government Code (page 1, line 50), strike "or".

(2) In added Section 250.009(b), Local Government Code (page 1, line 53), between "Service" and the underlined period, insert the following:

; or

(3) an ordinance, rule, or other regulation related to:

(A) high grass; or

(B) weed removal for the purpose of fire prevention

The amendment to **CSSB 14** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 2 except as follows:

Present-not voting: Huffines.

Senator Creighton offered the following amendment to the bill:

Floor Amendment No. 3

Amend **CSSB 14** (senate committee printing), in SECTION 3 of the bill, as follows:

(1) In added Section 250.009(b), Local Government Code (page 1, line 50), strike "or".

(2) In added Section 250.009(b), Local Government Code (page 1, line 53), between "Service" and the underlined period, insert the following:

; or

(3) an ordinance, rule, or regulation applicable to a person who owns a tract of land and who has divided or proposes to divide the tract into twenty-five or more parts to lay out a subdivision of the tract for the purpose of developing the land for sale as residential property

The amendment to **CSSB 14** was read and was adopted by the following vote: Yeas 17, Nays 13, Present-not voting 1.

Yeas: Bettencourt, Birdwell, Buckingham, Creighton, Estes, Hall, Hancock, Hughes, Kolkhorst, Lucio, Perry, Schwertner, Seliger, Taylor of Galveston, Taylor of Collin, Watson, Whitmire.

Nays: Burton, Campbell, Garcia, Hinojosa, Huffman, Menéndez, Miles, Nelson, Nichols, Rodríguez, Uresti, West, Zaffirini.

Present-not voting: Huffines.

Senator Menéndez offered the following amendment to the bill:

Floor Amendment No. 4

Amend **CSSB 14** (senate committee report) in SECTION 3 of the bill as follows:

(1) In added Section 250.009(a), Local Government Code (page 1, line 36), strike "Subsection (b)" and substitute "Subsections (b) and (c)".

(2) In added Section 250.009, Local Government Code (page 1, between lines 53 and 54), insert the following:

(c) This section does not apply to real property located a county with a population of more than 1.5 million.

The amendment to **CSSB 14** was read and failed of adoption by the following vote: Yeas 11, Nays 20.

Yeas: Garcia, Hinojosa, Lucio, Menéndez, Miles, Rodríguez, Uresti, Watson, West, Whitmire, Zaffirini.

Nays: Bettencourt, Birdwell, Buckingham, Burton, Campbell, Creighton, Estes, Hall, Hancock, Huffines, Huffman, Hughes, Kolkhorst, Nelson, Nichols, Perry, Schwertner, Seliger, Taylor of Galveston, Taylor of Collin.

CSSB 14 as amended was passed to engrossment by the following vote: Yeas 17, Nays 14.

Yeas: Bettencourt, Birdwell, Buckingham, Burton, Campbell, Creighton, Estes, Hall, Hancock, Huffines, Hughes, Kolkhorst, Nichols, Perry, Schwertner, Seliger, Taylor of Collin.

Nays: Garcia, Hinojosa, Huffman, Lucio, Menéndez, Miles, Nelson, Rodríguez, Taylor of Galveston, Uresti, Watson, West, Whitmire, Zaffirini.

CO-AUTHORS OF SENATE BILL 13

On motion of Senator Burton, Senators Bettencourt and Taylor of Collin will be shown as Co-authors of **SB 13**.

CO-AUTHOR OF SENATE BILL 14

On motion of Senator Hall, Senator Taylor of Collin will be shown as Co-author of **SB 14**.

CO-AUTHORS OF SENATE JOINT RESOLUTION 6

On motion of Senator Rodríguez, Senators Hinojosa and Miles will be shown as Co-authors of **SJR 6**.

RESOLUTIONS OF RECOGNITION

The following resolutions were adopted by the Senate:

Memorial Resolutions

SR 73 by Hughes, In memory of John Glynn Patrick.

SR 77 by Watson, In memory of Stephen Rice.

Congratulatory Resolutions

SR 72 by West, Commending Gustavo Guillermo Flores IV for achieving the rank of Eagle Scout.

SR 74 by Creighton, Commending William David Philpott for achieving the rank of Eagle Scout.

SR 75 by Zaffirini, Recognizing Rosalia Fink for her commitment to victims of domestic violence and abuse.

ADJOURNMENT

On motion of Senator Whitmire, the Senate at 4:41 p.m. adjourned, in memory of Emil Ogden, Walt Schoenvogel, and Thomas Diamond, until 4:50 p.m. today.